

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Michael J. Botich

Application No.: 10/698,763

Confirmation No.
2804

Filed: October 31, 2003

For: FLUID COLLECTION DEVICE WITH
CAPTURED RETRACTABLE NEEDLE

Group Art Unit: 3763

Examiner: Theodore J. Stigell

Customer No.: 65008

INFORMATION DISCLOSURE STATEMENT

TO THE COMMISSIONER FOR PATENTS:

1. Pursuant to the duty of disclosure, documents listed on the accompanying Forms PTO/SB/08a, PTO/SB/08b (or equivalents) are presented for the Examiner's consideration.

- ☒ Copies of listed U.S. patents and U.S. patent application publications are not required for submission. (37 C.F.R. § 1.98(a)(2)(ii))
- ☒ Copies of listed foreign patent documents and/or non-patent literature are enclosed. (37 C.F.R. § 1.98(a)(2))
- ☐ Copies of the documents listed at (sheet/cite no.) _____ of the attached Forms PTO/SB/08a, PTO/SB/08b (or equivalents) are omitted because (1) they are already of record in U.S. Patent Application No. _____, filed _____, on which this application relies for an earlier filing date under 35 U.S.C. § 120; and (2) any information disclosure statement filed in the prosecution of Application No. _____, complies with 37 CFR § 1.98(a) through (c). (37 C.F.R. § 1.98(d))
- ☐ A copy of copending U.S. Patent Application No. _____, filed _____, for _____, listed at (sheet/cite no.) _____ of the attached Form PTO-1449 (or equivalent), ☐ is enclosed / ☐ is omitted. (Copy not required if available via IFW. 1287 OG 163 (Oct. 19, 2004).).

2. This information disclosure statement is being submitted (check box a., b., or c.):

- a. ☐ Within three months of the filing date of a national application or entry of the national stage in an international application; or before the mailing of a first Office action on the merits; or before the mailing of a first Office action after the filing of a request for continued examination under 37 CFR 1.114. (No statement under 37 CFR 1.97(e) is required.); or
- b. ☒ After the period set forth in paragraph 2a, but before the mailing date of either a final action, a notice of allowance, or an action that otherwise closes prosecution in the application. (Check box i. or ii.)
- i. ☒ The \$180.00 information disclosure statement submission fee set forth in 37 CFR 1.17(p) is paid herewith, or
- ii. ☐ A statement specified by 37 CFR 1.97(e) is set forth below; or
- c. ☐ After the mailing date of a final action or notice of allowance and on or before payment of the issue fee. A statement specified by 37 CFR 1.97(e) is set forth below. Enclosed is the \$180.00 information disclosure statement processing fee set forth in 37 CFR 1.17(p).

3. Fee Payment

- a. ☐ A check in the amount of \$_____ is enclosed.
- b. ☒ Payment by credit card.
- c. ☐ Please charge our Deposit Account No. 50-2375 in the amount of \$_____.
- d. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required in connection with filing of these papers, or credit overpayment to Deposit Account No. 50-2375.

4. If a statement specified by 37 CFR 1.97(e) is required, the attorney or agent signing below hereby states that:

- ☐ each item of information contained in this information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement; or

- ☐ no item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in this information disclosure statement was known to any individual designated in 37 CFR 1.56(c) more than three months prior to the filing of the information disclosure statement.
5. ☒ A concise explanation of the relevance of each document not in the English language and/or selected documents in the English language is set forth below:

Japanese Patent Application Laid-Open No. 2-502076, which is listed as reference number three (3) in the accompanying Form PTO/SB/08 Substitute, is submitted for the relevance, if any, of what its figures fairly disclose. The Applicants note that this reference was cited by the Japanese Patent Office in a related application. Moreover, this reference is the Japanese nationalization of the PCT International Application that published as WO 89/04678, which is listed as reference number seven (7) in the accompanying Form PTO/SB/08 Substitute.

Japanese Patent Application Laid-Open No. 9-506533, which is listed as reference number four (4) in the accompanying Form PTO/SB/08 Substitute, is submitted for the relevance, if any, of what its figures fairly disclose. The Applicants note that this reference was cited by the Japanese Patent Office in a related application. Moreover, this reference is the Japanese nationalization of the PCT International Application that published as WO 95/16389, which is listed as reference number eight (8) in the accompanying Form PTO/SB/08 Substitute.

Japanese Patent Application Laid-Open No. 59-160441, which is listed as reference number five (5) in the accompanying Form PTO/SB/08 Substitute, is submitted for the relevance, if any, of what its figures fairly disclose. The Applicants note that this reference was cited by the Japanese Patent Office in a related application. Moreover, this reference claims priority to U.S. Patent No. 4,517,978, which is listed as reference number one (1) in the accompanying Form PTO/SB/08 Substitute.

Japanese Utility Model Application Laid-Open No. 7-24307, which is listed as reference number six (6) in the accompanying Form PTO/SB/08 Substitute, is submitted for the relevance, if any, of what its figures fairly disclose. The Applicants note that this reference was cited by the Japanese Patent Office in a related application. Based on an English-language interpretation of the remarks of the Japanese Patent Office, which the Applicants have not independently verified and thus make no admissions with respect to the same, it appears that the Japanese Patent Office alleges that this reference discloses the "connection of a needle to

a fine tube through a hub, provision of a fixing wing, and connection of a second needle to a distal end of the fine tube, remote from the needle hub."

DATED this 13th day of April, 2009.

Respectfully submitted,

/Daniel C. Higgs/

Daniel C. Higgs
Registration No. 55,265

Stoel Rives LLP
One Utah Center
201 South Main Street, Suite 1100
Salt Lake City, UT 84111
Telephone: 801-578-6926